

TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Timothy J. Skitberg and Deborah A. Sherman)	
	Map 117-00-0, Parcel 12.00)	Davidson County
	Residential Property)	
	Tax Year 2007)	

INITIAL DECISION AND ORDER

Statement of the Case

On July 10, 2007, the State Board of Equalization received the above styled appeal by Timothy Skitberg, one of the current owners of the subject parcel. According to his statement on the appeal form and his testimony at the hearing the property was acquired on February 20, 2007.

The undersigned administrative law judge, pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505, conducted a jurisdictional hearing on November 20, 2007, at the Davidson County Property Assessor's Office. Present at the hearing were Timothy Skitberg, the taxpayer who represented himself; Margaret Darby from the Metro. Legal Department and Mr. Jason Poling, Residential Appraiser, Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The subject property consists of a single family residence located at 2309 Woodmont Blvd, in Nashville, Tennessee.

The initial issue is whether or not the State Board of Equalization has the jurisdiction to hear the taxpayer's appeal. The law in Tennessee generally requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing the State Board of Equalization. T.C.A. §§ 67-5-1401 & 67-5-1412 (b). A direct appeal to the State Board of Equalization is only permitted if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. T.C.A. §§ 67-5-508(b)(2); 67-5-1412 (e). Nevertheless, the legislature has also provided that:

The taxpayer shall have a right to a hearing and determination to show **reasonable cause** for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1st of the year subsequent to the year in which the assessment is made (*emphasis added*).

In analyzing and reviewing T.C.A. § 67-5-1412 (e), the Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of

them. It was not the intent of 'reasonable cause' provisions to waive these requirements except where the failure to meet them is **due to illness or other circumstances beyond the taxpayer's control.** (*emphasis added*), *Associated Pipeline Contractors Inc.*, (Williamson County Tax Year 1992, Assessment Appeals Commission, Aug. 11, 1994). See also *John Orovets*, (Cheatham County, Tax Year 1991, Assessment Appeals Commission, Dec. 3, 1993).

Thus for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from appealing to the Davidson County Board of Equalization. It is the taxpayer's burden to prove that they are entitled to the requested relief.

The taxpayer, Mr. Skitberg, stated that:

"I was not able to file an appeal with Davidson County because I did not do it within the required time. The appraisal notice was sent to the previous owner's address and I received it too late to make the deadline. Thank you for your consideration."

However during cross-examination by the County's Attorney, Ms. Darby, Mr. Skitberg was shown a document (County's Exhibit #1) which clearly shows that the address on the Notice of Appraised Value, Classification, and Assessed Value (County's Exhibit #2) was the address noted on the Warranty Deed as the address of the New Owner and the address the Tax Bills are to be sent. This is crucial to this case as it is the legal obligation of the County to send the aforementioned Notice to the current property owner. The document would have been filed by the taxpayer or at his direction by the closing officers and was part of the closing packet as it bears his signature.

After reviewing the documentation there is, regrettably, there is not sufficient reasonable cause to maintain that incidents beyond the taxpayers control prevented him from filing with the Davidson County Board as required by statute.

ORDER

The Administrative Judge believes that "reasonable cause" does not exist and the taxpayer has not sustained his burden and therefore the State Board of Equalization does not have jurisdiction to hear this Appeal.

Pursuant to the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301—325, T.C.A. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

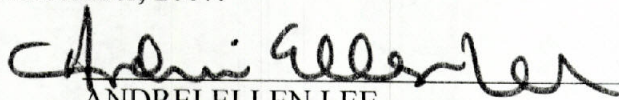
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. T.C.A. § 67-5-1501(c) provides that an appeal "must be filed within thirty (30) days from the date the initial decision is sent." Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal "identify the

allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”; or

2. A party may petition for reconsideration of this decision and order pursuant to T.C.A. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to T.C.A. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

Entered on this the 5th of December, 2007.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
STATE BOARD OF EQUALIZATION

cc: Timothy J. Skitberg, Taxpayer
Margaret Darby, Esquire-Metro. Legal Department
JoAnn North, Metro. Property Assessor